

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. CR 07-282 JC

MARGARET ETHEL LINNELL,
d/b/a Palomas Tax and Accounting,

Defendant.

**MEMORANDUM OPINION AND ORDER ON
DEFENDANT'S MOTION TO WITHDRAW PLEA AGREEMENT**

THIS MATTER comes before the Court on Defendant's Notice of Revocation of Plea Agreement (Doc. 268) ("Motion"), filed April 3, 2009. After reviewing Defendant's Revocation, or motion to withdraw her prior plea, hearing oral arguments on April 15, 2009, and reviewing the lengthy record in this case in full, I ruled that Defendant's Motion is not well taken and should be denied. I now enter this Memorandum Opinion and Order to more fully set forth my reasons.

Factors for a court's consideration on a motion to withdraw a plea are: (1) whether the defendant has asserted his innocence, (2) whether the government will be prejudiced if the motion is granted, (3) whether the defendant has delayed in filing the motion, (4) the inconvenience to the court if the motion is granted, (5) the quality of the defendant's assistance of counsel, (6) whether the plea was knowing and voluntary, and (7) whether the granting of the motion would cause a waste of judicial resources. *United States v. Koskella*, 300 F.Supp.2d 1167 (10th Cir. 2003).

In this case, all factors weigh in favor of denying Defendant's motion. Defendant does

not assert her innocence in this case. With respect to Factors 2, 3, and 4, this case has been pending since February 16, 2007, with multiple delays and distractions attributable to Defendant and much inconvenience to the Court. I agree with the Honorable Martha Vázquez, to whom this case was previously assigned, and counsel for the Government, who have both indicated on the record that the assistance provided to Defendant by her attorney, Richard Winterbottom, Assistant Federal Public Defender, has been excellent. Further, I find that Defendant's plea was knowing and voluntary in light of her prior trial before the Honorable M. Christina Armijo, the plea colloquy taken by the Honorable Daniel W. Schneider, and Mr. Winterbottom's representations that Defendant was advised and counseled extensively regarding the plea. In my view, the granting of Defendant's motion would cause considerable waste of judicial resources.

IT IS THEREFORE ORDERED that *Defendant's Revocation of Plea Agreement* (Doc. 268), filed April 3, 2009, is DENIED.

DATED April 15, 2009.

s/John Edwards Conway

SENIOR UNITED STATES DISTRICT JUDGE

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